

CSD 1160 [05/15/03]

Name, Address, Telephone No. &amp; I.D. No.

**WILLIAM G. MALCOLM, #129271****KEVIN HAHN, #231579****MALCOLM ♦ CISNEROS, A Law Corporation****2112 Business Center Drive, 2<sup>nd</sup> Floor****Irvine, California 92612****(949) 252-9400 (TELEPHONE) (949) 252-1032 (FACSIMILE)****UNITED STATES BANKRUPTCY COURT**

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re

**MICHAEL R. PATTERSON,**

Debtor.

BANKRUPTCY NO. **09-10872****JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,  
and its successors and/or assignees,**RS NO. **WGM-2**

Moving Party

**MICHAEL R. PATTERSON, Debtor,  
and JAMES L. KENNEDY, Trustee,**

Respondent(s)

**MOTION FOR RELIEF FROM AUTOMATIC STAY**  
 **REAL PROPERTY**  **PERSONAL PROPERTY**

Movant in the above-captioned matter moves this Court for an Order granting relief from the automatic stay on the grounds set forth below:

1. A Petition under Chapter  7  11  12  13 was filed on **JULY 28, 2009**.
2. Procedural Status:
  - a.  Name of Trustee Appointed (*if any*): **JAMES L. KENNEDY**
  - b.  Name of Attorney of Record for Trustee (*if any*):
  - c.  (*Optional*) Prior Filing Information:  
Debtor has previously filed a Bankruptcy Petition on: \_\_\_\_\_.  
If applicable, the prior case was dismissed on: \_\_\_\_\_.
  - d.  (*If Chapter 13 case*): Chapter 13 plan was confirmed on \_\_\_\_\_ or a confirmation hearing is set for \_\_\_\_\_.

Movant alleges the following in support of its Motion:

1.  The following real property is the subject of this Motion:
  - a. Street address of the property including county and state:  
**273 TWIN OAKS AVENUE**  
**CHULA VISTA, CA 91910**
  - b. Type of real property (e.g., single family residence, apartment building, commercial, industrial, condominium, unimproved):  
**Single family residence**
  - c. Legal description of property is attached as Exhibit A.

d. If a chapter 11 or 13 case and if non-payment of any post-petition payment is ground for relief, attach the accounting required by Local Bankruptcy Rule 4001-2(a)(4) as Exhibit B.

e. \*Fair market value of property as set forth in the Debtor's Schedules : \$100,000.00.

f. \*Nature of Debtor's interest in the property:

**Owner**

2.  The following personal property is the subject of this Motion (*describe property*):

a. Fair market value of property as set forth in the Debtor's Schedules: \$\_\_\_\_\_.

b. Nature of Debtor's interest in the property:

3. \*Fair market value of property according to Movant:\$\_\_\_\_\_.

4. \*Nature of Movant's interest in the property: **Secured Creditor holding a First Note and Deed of Trust on the subject property.**

5. \*Status of Movant's loan:

a. Balance owing on the date of Order for Relief:	<u>\$354,503.25</u>
b. Amount of monthly payment:	<u>\$939.41</u>
c. Date of last payment:	<u>JULY 20, 2009</u>
d. If real property,	
i. Date of default:	<u>JULY 1, 2009</u>
ii. Notice of Default recorded on:	<u>N/A</u>
iii. Notice of Sale published on:	<u>N/A</u>
iv. Foreclosure sale currently scheduled for:	<u>N/A</u>
e. If personal property,	
i. Pre-petition default: \$_____	No. of months:_____
ii. Post-petition default: \$_____	No. of months:_____

6. (*If Chapter 13 Case, state the following:*)

a. Date of post-petition default: \_\_\_\_\_  
Amount of post-petition default: \$\_\_\_\_\_

7. Encumbrances:

a. Voluntary encumbrances on the property listed in the Schedules or otherwise known to Movant:

Lender Name	Principal Balance	(IF KNOWN) Pre-Petition Arrearages		Post-Petition Arrearages	
		Total Amount - # of Months:		Total Amount - # of Months	
1 <sup>st</sup> : <b>JPMORGAN CHASE BANK</b>	<b>\$354,503.25</b>	<b>\$983.39</b>	<b>1</b>	<b>\$939.41</b>	<b>1</b>
2 <sup>nd</sup> : <b>RUSSEL J. SINGER</b>	<b>\$310,000.00</b>				
3 <sup>rd</sup> :					
4 <sup>th</sup> :					
Totals for all Liens:	<b>\$664,503.25</b>	<b>\$ 983.39</b>	<b>1</b>	<b>\$939.41</b>	<b>1</b>

b. Involuntary encumbrances of record (e.g., tax, mechanic's, judgment and other liens, lis pendens) as listed in the schedules or otherwise known to Movant:  
 See attached page, if necessary.

\*Separately filed Declaration required by Local Bankruptcy Rule 4001-2(a)(5.)

8. Relief from the automatic stay should be granted because:

- Movant's interest in the property described above is not adequately protected.
- Debtor has no equity in the  real property  personal property described above and such property is not necessary to an effective reorganization.
- The property is a "single asset real estate", as defined in 11 U.S.C. § 101(51B), and 90 days (or \_\_\_\_\_ days as ordered by this court) have passed since the entry of the order for relief in this case, and
  - The Debtor/Trustee has not filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; and
  - The Debtor/Trustee has
    - not commenced monthly payments to each creditor whose claim is secured by the property (other than a claim secured by a judgment lien or by an unmatured statutory lien), or
    - commenced payments, but such payments are less than the amount equal to interest at a current fair market reate on the value of each creditors' interest in the property.
- \*Other cause exists as follows (specify):  See attached page.

Movant attaches the following:

1.  Other relevant evidence:

**Debtor's Schedules as Exhibit "E"**

**A copy of the Affidavit of the Federal Deposit Insurance Corporation, which reflects JPMORGAN CHASE BANK, NATIONAL ASSOCIATION as the Successor to WASHINGTON MUTUAL is attached hereto as Exhibit "F."**

2.  (Optional) Memorandum of points and authorities upon which the moving party will rely.

WHEREFORE, Movant prays that this Court issue an Order granting the following:

Relief from the automatic stay to allow JPMORGAN CHASE BANK to enforce its rights and remedies under its Note and Deed of Trust.

Other: **JPMORGAN CHASE BANK requests a waiver of the 10-day stay provided by Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure.**

Dated: **September 29, 2009**

/S/ WILLIAM G. MALCOLM  
 [Attorney for] Movant,

SC/WAMU/42775

\* Separately filed Declaration required by Local Bankruptcy Rule 4001-2(a)(5).